

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**December 21, 1998**

DIVISION ONE

B117959      Anand Diamond Corporation, et al.      (Not for Publication)  
                 v.  
                 Underwriters at Lloyds of London Insurers, et al.

The order is affirmed. Defendants are awarded their costs on appeal.

Vogel (Miriam A.), J.

We concur:    Spencer, P.J.  
                     Dunn, J. (Assigned)

B120654      Alaska Petroleum Environmental      (Not for Publication)  
                 Engineering, Inc.  
                 v.  
                 Perez, et al.

The summary judgment is affirmed.

Masterson, J.

We concur:    Vogel (Miriam A.), Acting P.J.  
                     Dunn, J. (Assigned)

B117089      Magee      (Not for Publication)  
                 v.  
                 Pillsbury Madison & Sutro

The judgment is affirmed.

Masterson, J.

We concur:    Ortega, Acting P.J.  
                     Dunn, J. (Assigned)

## DIVISION ONE (Continued)

B119823      Tanabe      (Not for Publication)  
v.  
Sumitomo Real Estate Sales Co., Ltd.

The appeal is dismissed to the extent plaintiffs seek review of the trial court's October 15, 1997 order granting the motion to quash service of process. The trial court's January 22, 1998 order denying plaintiffs' motion for reconsideration is affirmed. Respondent is entitled to costs on appeal.

Masterson, J.

We concur: Ortega, Acting P.J.  
Vogel (Miriam A.), J.

## DIVISION TWO

B121537      Universal Time, Inc.      (Not for Publication)  
v.  
Dowex, Inc.

The judgment is affirmed.

Boren, P.J.

We concur: Fukuto, J.  
Zebrowski, J.

B118294      Stephen A. Kozub      (Not for Publication)  
v.  
City of Pomona

Let a peremptory writ of mandate issue, directing the trial court (1) to vacate its order commanding the issuance of a permit to Stephen Kozub, and (2) to conduct further proceedings consistent with this opinion. Parties to bear their own costs on appeal.

Boren, P.J.

We concur: Fukuto, J.  
Nott, J.

DIVISION TWO (Continued)

B115019      Malcolm Cecil                      (Not for Publication)  
                 v.  
                 Beneficial California, Inc., et al.

The judgment is affirmed.

Boren, P.J.

We concur:   Fukuto, J.  
                 Zebrowski, J.

B106906      People                                      (Not for Publication)  
                 v.  
                 Bruce Evans

The superior court is directed to correct the abstract of judgment to reflect the imposition of the \$200 restitution fine. In all other respects, the judgment is affirmed.

Boren, P.J.

We concur:   Fukuto, J.  
                 Nott, J.

DIVISION THREE

Court convened at 9:30 A.M.

Present: Klein, P.J., Croskey, J., Kitching, J., Aldrich, J., and Valorie Gray, Deputy Clerk.

Each of the following:

B120514 People v. Capleton  
B126944 Patricia O., v. S.C.L.A.  
B113960 Harsh v. Harsh  
B118649 People v. Timothy M.  
B117184 People v. Roberts  
B116618 Dept. of Children & Family Services v. Mechele A.

DIVISION THREE (Continued)

Each of the following (cont.):

B109400 People v. Enriquez  
B118338 People v. Robinson  
B118545 People v. Milner  
B107567 People v. Crumpton  
B117135 People v. Davis  
B120345 Dept. of Children & Family Services v. Linda S., et al.  
B114446 County of Los Angeles v. Ranger Ins. Co.  
B121991 Dept. of Children & Family Services v. Monica H.  
B116658 People v. Andreas L.  
B116203 People v. Torres  
B117590 People v. Jackson

Argument waived, cause submitted.

B120626     People  
              v.  
              Coleman

Merits:

Argued by Richard Fitzer for appellant and by David Cook, deputy attorney general for respondent. Cause submitted.

B113153     Moradi  
              v.  
              Moradi

Merits:

Argued by Arthur Schwimmer for appellant and by Saul Reiss for respondent. Cause submitted.

B126210     Garcetti  
              v.  
              S.C.L.A.  
              (Lyles, r.p.i.)

Merits:

Argued by Fred Klink, deputy district attorney for petitioner and by Alan Ross for real party in interest. Cause submitted.

DIVISION THREE (Continued)

B119251      CPF Advisory Corp.  
                 v.  
                 Calif. Properties Fund, et al.

Merits:  
Argued by Geoffrey Bryan for appellant and by Thomas P. Hanrahan for respondent. Cause submitted.

B124095      Jaliso Corporation  
                 v.  
                 Argonaut Insurance Co., et al.

Merits:  
Argued by Ralph G. Wellington for appellant and by David S. Eisen for respondent. Cause submitted.

B107534      Revelle  
                 v.  
                 Hughes Aircraft Company

Merits:  
Argued by Brenda Revelle for appellant and by William C. Price for respondent. Cause submitted.

The court recessed at 11:55 A.M.

The Court reconvened at 1:30 P.M.

Present: Klein, P.J., Croskey, J., Kitching, J., Aldrich, J., and Valorie Gray, Deputy Clerk.

B118819      People  
                 v.  
                 Gonzalo J.

Merits:  
Argued by Sylvia Havens for appellant and by David C. Cook, deputy attorney general for respondent. Cause submitted.

DIVISION THREE (Continued)

B115632     People  
              v.  
              Adams

Merits:

Argued by James V. Jordan for appellant and by April Sylvester, deputy attorney general for respondent. Cause submitted.

B113925     Holmes  
              v.  
              Atlantic Richfield Company

Merits:

Argued by Christopher W. Olmsted for appellant and by James A. Zapp for respondent. Cause submitted.

B103266     Scully  
              v.  
              Kern Helicopters, Inc., et al.

Merits:

Argued by Toni Rae Bruno for appellant and by William Wamsatt and William O'Connor for respondents. Cause submitted.

B110191     Ades  
              v.  
              Young

Merits:

Argued by Robert Bretz for appellant and by Gregory Oxford and Allan Schare for respondents. Cause submitted.

The court adjourned at 4:05 P.M.

December 21, 1998-Continued

### DIVISION THREE (Continued)

B123439      People                                  (Not for Publication)  
v.  
Ruben John Garcia

The judgment is affirmed.

Klein, P.J.

We concur:   Kitching, J.  
                      Aldrich, J.

B121671      Los Angeles County, D.C.S.      (Not for Publication)  
v.  
Patricia P.

The appeal is dismissed.

Klein, P.J.

We concur:   Croskey, J.  
                      Aldrich, J.

B120339      Los Angeles County, D.C.S.      (Not for Publication)  
v.  
Mechele A.

The appeal is dismissed.

Klein, P.J.

We concur:   Kitching, J.  
                      Aldrich, J.

DIVISION FIVE

B110080      James Dale  
                 v.  
                 Louise Dale

Filed order modifying opinion. (No change in the judgment)

DIVISION SIX

B116324      Squier, et al.                              (Not for Publication)  
                 v.  
                 Skovgaard-Petersen, et al.

The judgment is affirmed. Appellants shall bear costs on appeal.

Gilbert, J.

We concur:    Stone, P.J.  
                         Yegan, J.

B112420      People    (Not for Publication)  
                 v.  
                 Edwards

The judgment is affirmed.

Gilbert, J.

We concur:    Stone, P.J.  
                         Yegan, J.



December 21, 1998-Continued

## DIVISION SIX (Continued)

[illegible]

The clerk of the superior court is ordered to prepare and forward to the Department of Corrections an amended abstract of judgment reflecting the \$540 fine. The judgment in all other respects is affirmed.

Yegan, J.

We concur:    Gilbert, Acting P.J.  
                     Coffee, J.

B123091 People (Not for Publication)  
v.  
Khan

The judgment (order of commitment) is affirmed.

Coffee, J.

We concur:    Gilbert, Acting P.J.  
                      Yegan, J.

B116313      Henry      (Certified for Publication)  
v.  
Workers Compensation Appeals Board

The petition is denied. The parties are to bear their own costs.

Gilbert, J.

We concur: Stone, P.J.  
Yegan, J.

## DIVISION SIX (Continued)

B114279 Favorite (Certified for Publication)  
v.  
County of Los Angeles

The order is reversed so that the trial court may rehear the petition. The parties are to bear their own costs.

Gilbert, Acting P.J.

We concur: Yegan, J.  
Coffee, J.

## DIVISION SEVEN

B118963 People (Not for Publication)  
v.  
Linares

The sentence and order denying the motion for new trial are vacated and the cause is remanded to the trial court with directions to again hear and determine the motion for new trial in accordance with the views expressed herein; in all other respects the judgment is affirmed. If the trial court grants a new trial, the cause will be set at large and appellant will be entitled to a trial on the merits, but if the trial court denies the motion for new trial, then the trial court shall again pronounce judgment of sentence.

Lillie, P.J.

We concur:   Johnson, J.  
                      Neal, J.

DIVISION SEVEN (Continued)

B114114      Wertin                                      (Certified for Publication)  
B117076      v.  
                 Franchise Tax Board

The judgment and order are affirmed. Respondents to recover their costs on appeal.

Lillie, P.J.

We concur:   Johnson, J.  
                 Woods, J.

B121816      Hindin  
                 v.  
                 Rust

Filed order denying petition for rehearing.

B116659      Newsome  
                 v.  
                 Newsome

Filed order certifying opinion for publication.

B118841      Atlantic Richfield Company                      (Not for Publication)  
                 v.  
                 Calif. Franchise Tax Board

The judgment is affirmed. Respondent is entitled to costs on appeal.

Lillie, P.J.

We concur:   Johnson, J.  
                 Woods, J.

DIVISION SEVEN (Continued)

B105799      Nelson, et al.      (Not for Publication)  
                 v.  
                 Smith, et al.

The judgment is affirmed. Respondents to recover costs on appeal.

Lillie, P.J.

We concur:   Johnson, J.  
                 Woods, J.

B107996      Brown      (Not for Publication)  
B108066      v.  
                 Falkowski, et al.

The appeals are dismissed.

Lillie, P.J.

We concur:   Woods, J.  
                 Neal, J.

B120855      Bellflower Unified School District      (Not for Publication)  
                 v.  
                 Bellflower Education Assoc.

The order is affirmed. Respondent is entitled to costs on appeal.

Lillie, P.J.

We concur:   Woods, J.  
                 Neal, J.

DIVISION SEVEN (Continued)

B115862      Silgan Containers Corp., et al.                      (Not for Publication)  
                 v.  
                 Royal Indemnity Company

The appeal is dismissed. Respondent shall recover its costs on appeal.

Neal, J.

We concur: Lillie, P.J.  
                 Johnson, J.

B104377      Hall, et al.    (Not for Publication)  
                 v.  
                 Kettering

The judgment is reversed and the caused remanded with instructions the trial court shall vacate the award and modify it by reducing the attorney fee portion of the award from \$11,280 to \$5,640. In all other respects the judgment is affirmed. Both parties to pay their own costs including attorney fees on appeal.

Johnson, J.

We concur: Lillie, P.J.  
                 Woods, J.

B114107      De Rogatis    (Not for Publication)  
                 v.  
                 Disney Magazine Publishing, Inc.

The judgment is affirmed as to liability, and reversed and remanded for retrial on damages. The parties shall bear their own costs.

Neal, J.

We concur: Lillie, P.J.  
                 Johnson, J.

DIVISION SEVEN (Continued)

B122125` People (Not for Publication)  
v.  
Guerrero

The judgment is affirmed.

Lillie, P.J.

We concur: Johnson, J.  
Neal, J.

B118685 People (Not for Publication)  
v.  
Tedder

The judgment is affirmed.

Lillie, P.J.

We concur: Woods, J.  
Neal, J.

B118147 People (Not for Publication)  
v.  
Cote

The judgment is affirmed.

Neal, J.

We concur: Lillie, P.J.  
Woods, J.

## DIVISION SEVEN (Continued)

[illegible]

The judgment is modified to impose and suspend a \$5,000 parole revocation restitution fine pursuant to Penal Code section 1202.45. In all other respects, the judgment is affirmed. The superior court shall cause the clerk to prepare and send an amended abstract of judgment to the California Department of Corrections reflecting that two restitution fines of \$5,000 were imposed, under Penal Code sections 1202.4 and 1202.45 respectively, and that the latter fine was suspended.

Neal, J.

We concur: Lillie, P.J.  
Johnson, J.

B115886      G.A. Mac Donald Construction      (Not for Publication)  
v.  
City of Los Angeles  
Soil Retention Systems

The judgment of the trial court in favor of MacDonald Construction is affirmed. However, the judgment is reversed to the extent it precludes an award of damages to MacDonald Construction on a pass-through basis to compensate Soil Retention Systems for delay related losses on the Venice Canals project. A new trial is ordered on that issue.

MacDonald Construction and Soil Retention Systems are awarded costs on appeal.

Boland, J. (assigned), J.

We concur:   Lillie, P.J.  
                      Johnson, J.